

P. RANDOLPH FINCH JR., SBN 185004

DUSTIN R. JONES, SBN 251335

MARKS, GOLIA & FINCH, LLP

ATTORNEYS AT LAW

8620 SPECTRUM CENTER BOULEVARD - SUITE 800

SAN DIEGO, CALIFORNIA 92123-1489

TELEPHONE: (858) 737-3100

FACSIMILE: (858) 737-3101

Attorneys for Defendants I.E. - Pacific, Inc. and
Travelers Casualty and Surety Company of America

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
DIVISION OF SAN FRANCISCO

THE UNITED STATES
OF AMERICA for the Use and
Benefit of CENTRAL VALLEY
ENGINEERING & ASPHALT, INC.;
and CENTRAL VALLEY
ENGINEERING & VALLEY
ENGINEERING & ASPHALT, INC.,
on its own behalf,

Plaintiff,

v.

I.E. - PACIFIC, INC.; TRAVELERS
CASUALTY AND SURETY
COMPANY OF AMERICA;
and DOES 1-10,

Defendants.

CASE NO: 3:10-CV-02663-RS

STIPULATION AND ~~[PROPOSED]~~
ORDER TO SUBMIT CLAIMS TO
BINDING ARBITRATION AND
STAY CASE

Assigned to:
Hon. Richard Seeborg,
Courtroom 3, 17th Floor

Complaint Filed: June 17, 2010
Trial Date: Not Set

STIPULATION AND ~~[PROPOSED]~~ ORDER TO SUBMIT CLAIMS TO BINDING
ARBITRATION AND STAY CASE, CASE NO. 3:10-CV-02663-RS

RECITALS

A. On or about June 17, 2010, The United States of America, for the Use and Benefit of Central Valley Engineering & Asphalt, Inc. ("CVEA"), and CVEA, on its own behalf, filed the captioned action against I.E. — Pacific, Inc. ("IEP"), and Travelers Casualty and Surety Company ("Travelers").

B. On or about August 16, 2010, the CVEA filed a First Amended Complaint ("FAC") in the action, which substituted Travelers Casualty and Surety Company of America ("Travelers of America") for Travelers. A true and correct copy of the First Amended Complaint is attached hereto as Exhibit "1." CVEA, IEP, and Travelers of America are referred to below as the ("Parties").

C. Attached as Exhibit "B" to the FAC is a document entitled, "Long Form Standard Subcontract" ("Subcontract"), which was executed by IEP and CVEA in 2008 in connection with the New Fire Station Project at NWS Seal Beach Detachment, in Concord, California.

D. Section 17 of the Subcontract provides a dispute resolution procedure for the parties to the Subcontract. Sub-section 17.2.1 provides the following:

"For claims not involving the acts or omission or otherwise the responsibility of the Owner under the prime contract, the parties hereto shall submit any and all disputes arising under or relating to the terms and conditions of the Subcontract to arbitration in accordance with the Construction Industry Rules of the American Arbitration Association. In either case, the demand for arbitration shall be made within a reasonable time after written notice of the claim, dispute or other matter in question has been given, and in no event shall it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations."

E. On April 21, 2011, IEP sent CVEA's counsel a written demand to arbitrate the claims asserted by CVEA in the FAC.

/////

STIPULATION

Without making any admissions regarding the validity of Section 17 of the Subcontract, the Parties stipulate as follows:

1. IEP, CVEA, and Travelers of America agree to submit the claims at issue in the captioned action to binding arbitration before an arbitrator to be agreed upon by the Parties (the "Arbitration") in accordance with the Construction Industry Rules of the American Arbitration Association, except as may be agreed otherwise in writing by the Parties.

2. The cost of the Arbitration will be split equally between CVEA and IEP.

3. The Arbitration will be binding on CVEA, IEP, and Travelers of America and will be a final resolution of all claims asserted in the FAC.

4. The Parties agree to a stay of proceedings in the United States District Court, pending the final resolution of claims in arbitration.

5. This stipulation shall not be construed or interpreted for or against any party because that party's legal counsel drafted any of its provisions.

6. This stipulation may be signed by the Parties in multiple counterparts, all of which shall be taken together as a single document and a signature or signatures delivered via electronic facsimile transmission shall be conclusively deemed to be an original signature to this stipulation. The Parties represent and warrant they shall not object to or oppose in any manner the introduction of such facsimile signature(s) into evidence as an original signature(s) in the course of any legal proceeding brought or maintained to enforce this stipulation, except a challenge to signature authenticity.

7. The signers each warrant they are authorized to sign this stipulation on behalf of the party for which she/he signs.

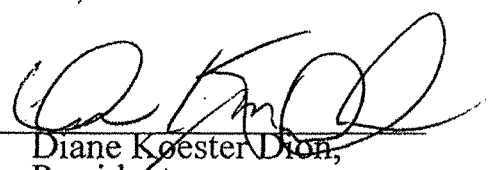
8. No modification of this stipulation shall be valid, unless agreed to in writing by the Parties.

9. This stipulation shall be construed and enforced in accordance with the laws of the State of California.

IT IS SO STIPULATED

DATED: June 22, 2011

I.E. – PACIFIC, INC.

Signature: 

Diane Koester Dion,
President

DATED: _____, 2011

TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA

Signature: _____

Name: _____

DATED: _____, 2011

CENTRAL VALLEY ENGINEERING
& ASPHALT, INC.

Signature: _____

Name: _____

Approved As To Form:

DATED: June 22, 2011

MARKS, GOLIA & FINCH, LLP

By: 

P. RANDOLPH FINCH JR.
DUSTIN R. JONES

Attorneys for Defendants I.E. – Pacific,
Inc. and Travelers Casualty and Surety
Company of America

1 8. No modification of this stipulation shall be valid, unless agreed to in
2 writing by the Parties.

3 9. This stipulation shall be construed and enforced in accordance with
4 the laws of the State of California.

5 IT IS SO STIPULATED

6 DATED: _____, 2011

I.E. – PACIFIC, INC.

7
8 Signature: _____

Diane Koester Dion,
President

9
10 DATED: JUNE 22, 2011

TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA

11
12 Signature: Ahw NASEEN

13
14 Name: Ahmad NASEEN

15 DATED: _____, 2011

CENTRAL VALLEY ENGINEERING
& ASPHALT, INC.

16
17
18 Signature: _____

19 Name: _____

20 Approved As To Form:

21 DATED: _____, 2011

MARKS, GOLIA & FINCH, LLP

22
23
24 By: _____

P. RANDOLPH FINCH JR.
DUSTIN R. JONES

Attorneys for Defendants I.E. – Pacific,
Inc. and Travelers Casualty and Surety
Company of America

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6 DATED: _____, 2011

I.E. – PACIFIC, INC.

7
8 Signature: _____
Diane Koester Dion,
9 President

10 DATED: _____, 2011

TRAVELERS CASUALTY AND
SURETY COMPANY OF AMERICA

11
12
13 Signature: _____

14 Name: _____

15 DATED: JUNE 22, 2011

CENTRAL VALLEY ENGINEERING
& ASPHALT, INC.

16
17
18 Signature: _____

19 Name: WARREN HOLT

20 Approved As To Form:

21 DATED: _____, 2011

MARKS, GOLIA & FINCH, LLP

22
23
24 By: _____
P. RANDOLPH FINCH JR.

25 DUSTIN R. JONES
Attorneys for Defendants I.E. – Pacific,
26 Inc. and Travelers Casualty and Surety
Company of America

1 DATED: 6/21, 2011

MURPHY, CAMPBELL, GUTHRIE
& ALLISTON

2
3
4 By: 

5 GEORGE A. GUTHRIE

DANIEL J. FOSTER

6 Attorneys for Use-Plaintiff/Plaintiff
7 Central Valley Engineering & Asphalt,
8 Inc.

[PROPOSED] ORDER

9 IT IS ORDERED:

10 1. The captioned action is stayed pending a final decision by the Arbitrator in the
11 Arbitration.

12 2. All pending trial dates, hearing dates and deadlines in the captioned action are
13 vacated.*

14 IT IS SO ORDERED.

15 DATED: 6/22, 2011


JUDGE OF THE DISTRICT COURT

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17
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19 400.020/31C4450.acv

20 * The Clerk is directed to close the file for administrative purposes. It may be reopened
21 for such additional proceedings as may be appropriate and necessary upon conclusion
22 of the arbitration.